

**Statement of Ambassador L. Paul Bremer, III, Chairman
National Commission on Terrorism**

Senate Committee on the Judiciary
Subcommittee on Terrorism, Technology, and Government Information
June 28, 2000

Mr. Chairman, Members of the Subcommittee, thank you for the opportunity to appear before the Subcommittee this afternoon to review the conclusions and recommendations of the National Commission on Terrorism.

The threat of terrorism is changing dramatically. It is becoming more deadly and it is striking us here at home. Witness the 1993 bombing of the World Trade Center, the thwarted attacks on New York's tunnels, and the 1995 plot to blow up 11 American airliners. If any one of these had been fully successful, thousands would have died. Crowds gathered to celebrate the Millennium were almost certainly the target for the explosives found in the back of a car at the U.S. border in December 1999. The Annual Report of the Canadian Security Intelligence Service, released earlier this month, cites the Millennium arrests as an example of today's threat: that of "an international ad hoc coalition of terrorists" who "have expressed the intention of causing harm to Americans and their allies". Overseas, more than 6,000 casualties were caused by just three anti-U.S. attacks, the bombings of a U.S. barracks in Saudi Arabia and of the U.S. embassies in Kenya and Tanzania.

If three attacks with conventional explosives injured or killed 6,000, imagine the consequences of an unconventional attack. What if a release of radioactive material made 10 miles of Chicago's waterfront uninhabitable for 50 years? What if a biological attack infected passengers at Dallas-Fort Worth Airport with a contagious disease?

It could happen. Five of the seven countries the U.S. Government considers terror-supporting states are working on such weapons and we know some terrorist groups are seeking so-called weapons of mass destruction.

Congress established the National Commission on Terrorism to assess U.S. efforts to combat this threat and to make recommendations for changes. The Commission found that while many important efforts are underway, America must immediately take additional steps to protect itself.

First, we must do a better job of figuring out who the terrorists are and what they are planning. First-rate intelligence information about terrorists is literally a life and death matter. Intelligence work, including excellent cooperation with Jordan, thwarted large-scale terrorist attacks on Americans overseas at the end of last year. Such welcome successes should not blind us to the need to do more.

Efforts to gather information about terrorist plots and get it into the hands of analysts and decision makers in the federal government are stymied by bureaucratic and cultural obstacles. For example, who better to tell you about the plans of a terrorist organization than a member of that organization? Yet, a CIA officer in the field hoping

to recruit such a source faces a daunting series of reviews by committees back at headquarters operating under guidelines that start from the presumption that recruiting a terrorist is a bad thing. This presumption can be overcome, but only after an extensive process designed to reduce the risk from such a recruitment to as near zero as possible.

Even if a young case officer makes it through this gauntlet, will the potential terrorist recruit still be around? Will the attack have already occurred? These guidelines were issued in response to allegations that the CIA had previously recruited individuals guilty of serious acts of violence. The Commission found that whatever their intention, they have come to constitute an impediment to effect intelligence collection and should not apply to counter terrorism sources. CIA field officers should be as free to use terrorist informants as prosecutors in America are to use criminal informants.

We also need more vigorous FBI intelligence collection against foreign terrorists in America and better dissemination of that information. FBI's role in collecting intelligence about terrorists is increasingly significant. Thus, it is essential that they employ the full scope of the authority the Congress has given them to collect that information. Yet, the Commission found that the Attorney General guidelines that govern when the FBI can open a preliminary inquiry or full investigation are unclear (they run to over 40 pages). The Commission heard testimony from both serving and retired agents that they are often unsure whether the circumstances of a particular case meet the criteria, which contributes to a risk-averse culture. Thus, the Commission recommends that the Attorney General and the Director of the FBI develop guidance to clarify the application of the guidelines, specifically the facts and circumstances that merit the opening of a preliminary inquiry or full investigation.

Another problem affecting the FBI's terrorism investigations is the overly cautious approach by the Office of Intelligence Policy and Review (OIPR) within the Department of Justice in reviewing applications for electronic surveillance against international terrorism targets. The Commission concluded that OIPR is requiring a higher standard than required by the Foreign Intelligence Surveillance Act in approving applications submitted by the FBI. The Justice Department came to the same conclusion in its report on the Wen Ho Lee matter, finding that OIPR was needlessly restrictive of the statute. The Commission therefore recommends that the Attorney General direct that OIPR not require information in excess of what is mandated by the probable cause standard under FISA. The Commission also recommends additional OIPR personnel to ensure timely review of FISA applications.

Once the information is collected by the FBI, technology shortfalls and institutional practices limit efforts to exploit the information and get it into the hands of those who need it, such as intelligence analysts and policymakers. The Commission recommends increased resources to meet FBI's technology needs, particularly in the area of encryption. More than 50 percent of the FBI's field offices report encountering encryption in criminal, counterintelligence or terrorist activity. In many of these cases, the FBI has difficulty in gaining timely access to the plain text of lawfully seized evidence, greatly hampering investigations and efforts to protect the public safety.

In the President's budget request, the FBI specified urgent requirements for improved technology, including the formation of a Technical Support Center to respond to the increased use of encryption. The Commission urges the Subcommittee to give the request careful consideration and to work with your colleagues on the Appropriations Committee to ensure this critical need is adequately funded. We also have a recommendation designed to improve the ability of agencies to quickly identify, locate, and use translators—a perennial problem that plagues not just intelligence agencies but is particularly critical for time sensitive needs such as preventing a terrorist attack.

This de-crypted and translated information is only valuable, however, if it gets to the people who need it. Dissemination of general intelligence information has not traditionally been an important part of FBI's mission. They do a good job of sharing specific threat information but, otherwise, sharing of information is not given a high priority. In fact, if the information is not specific enough to issue a warning or is not relevant to an investigation or prosecution, it may not even be reviewed. Information collected in field offices often never even makes it to headquarters. There is a dangerous possibility, however, that the unreviewed information could be the key to preventing an attack in the future.

The World Trade Center case is an example of this problem. In 1992, Ahmed Mohamed Ajaj entered the U.S. with Ramzi Yousef. In addition to several passports, Ajaj carried with him manuals containing instructions on constructing bombs of the type used in the WTC bombing. But more than seven years later, Ajaj's notebooks and manuals, specific pages of which were submitted as evidence during the WTC trial, have yet to be disseminated to the intelligence community for full translation and exploitation of the information.

The CIA faces a similar problem with the information it collects overseas in trying to protect sources and methods while disseminating the information as quickly and as broadly as possible to those who need it. CIA addresses this with dedicated personnel, called reports officers, located overseas and at headquarters who are responsible for reviewing, prioritizing, and distilling collected information for timely distribution. The Commission recommends that the FBI establish its own cadre of reports officers. To disseminate effectively the information while protecting criminal prosecutions and privacy rights, the FBI reports officers should be trained both in the information needs of the intelligence community and the legal restrictions that prohibit disclosure of some types of law enforcement information. To take on this new mission, the FBI must be provided the additional resources that would be required.

Recent events have also demonstrated what terrorists could do if they decided to use their increasingly sophisticated computer skills to perpetrate a cyber attack. A vigorous plan for defending against such attacks must be a national priority. In addition, because cyber attacks are often transnational, international cooperation is essential. The Commission therefore recommends that the Secretary of State take the lead in the drafting and signing of an international convention on cyber crime. There is

a current draft Council of Europe convention on cyber crime and the U.S. is participating in the negotiations. The Commission did not take a position on the current draft, which is months away from a final version. The draft does, however, contain some important provisions that will aid in international investigations of cyber attacks. The convention would make cyber attacks criminal offenses in all the signatory countries. It also recognizes that with cyber attacks, cooperation in international investigations must be accomplished in a matter of hours, before critical evidence disappears.

The Commission also strongly recommends measures to improve the lagging technological capabilities of the National Security Agency, the FBI and the CIA so that they don't completely lose their ability to collect intelligence against techno-savvy terrorists. These agencies, particularly the NSA, require funding to close the gaps in technology.

On the policy front, the United States needs to go after anyone supporting terrorists, from state sponsors, to nations that turn a blind eye to terrorist activity, to private individuals and organizations who provide material support to terrorist organizations.

Mr. Chairman, three of the state sponsors of terrorism. Iran, Syria and North Korea are currently undergoing internal changes. In the case of Iran, while the Americans may hope that President Khatemi can institute sensible political and economic reforms, the regrettable fact is that Iran continues to be the world's primary terrorist nation. Indeed, in the period since Khatemi's election, Iranian support for terrorists opposed to the peace in the Middle East has actually increased. Furthermore, there are indications that Iran was involved in the 1996 bombing attack in Saudi Arabia that killed 19 Americans. We think it is vital that the American government makes a sustained effort to enlist our allies in pressuring Iran to cooperate in the Khobar Towers bombing investigation. Until there is a definitive change in Iranian support for terrorism, we recommend that our government make no further gestures towards the Iranian government.

It is too early to tell if the death of Syrian dictator Hafez Assad will bring any change in that country's long support for terrorism. In conversations which American officials have with the new leaders of Syria, it should be made clear that Syria cannot expect normal relations with the outside world until it takes concrete, measurable steps to stop its support for terrorists. Hopefully the new leader of that country will come to understand that such a step is the prerequisite to obtaining the Western trade and investment essential to modernize Syria's economy.

Similarly, it is too soon to know if the dramatic summit in Pyongyang two weeks ago will pay dividends in getting North Korea to stop its support for terrorism. For years, that country has provided safehaven and support to radical Japanese terrorists. The communist government itself has been guilty of savage and bloody acts of terrorism, including an attempt to kill the entire South Korean cabinet and blowing up a

South Korean airliner. More recently, the government is suspected of having sold weapons to terrorist groups.

Recognizing the importance of encouraging change in North Korea, the U.S. Government last week eased a number of long-standing prohibitions against contacts between our two countries. But wisely the U.S. has left in place those sanctions which flow from the North's continued support for terrorism. And I believe our government should insist, as with Iran and Syria, that the North take specific concrete steps to stop its support for terrorism before giving them a clean bill of health.

The other countries the U.S. identifies as state sponsors (Cuba, Sudan, Iraq and Libya) should be made to understand that we will continue sanctions until they take concrete steps to cease all support for terrorism. In addition, the Taliban regime in Afghanistan should be designated a state sponsor.

There are also states that, while they may not actively support terrorists, seem to turn a blind eye to them. Congress gave the President the power to sanction nations that are not fully cooperating against terrorism, but the power has not been effectively exercised. There are candidates for this category. For example, Pakistan has been very helpful at times, yet openly supports a group that has murdered tourists in India and threatened to kill U.S. citizens. NATO ally Greece seems indifferent to the fight against terrorism. Since 1975 terrorists have attacked Americans or American interests in Greece 146 times. Greek officials have been unable to solve 145 of those cases. And just this month, terrorists struck again with the cowardly assassination in Athens of the British Defense Attache.

As today's terrorist groups receive less monetary support from states, they must seek funding elsewhere, such as individual sympathizers and non-government organizations (NGOs). Thus, disrupting these non-state sources of funding for terrorism has an increased importance. The Commission recommends that the U.S. government use the full range of legal and administrative powers at its disposal against these funding sources. The current strategy against terrorist fund-raising is too focused on prosecutions for providing material support to designated foreign terrorist organizations (FTOs). While these cases are not impossible to make, it is very difficult to prosecute and convict under the FTO statute. The Commission therefore recommends a broader strategy against terrorist fund-raising. Money laundering, tax, fraud and conspiracy statutes all lend themselves to aggressive use against terrorist organizations, their front groups and supporters.

To implement this broad strategy, the Commission recommended the formation of a joint task force of all U.S. Government agencies with information and authority relevant to terrorist fund-raising, as well as an expanded role for the Treasury Department's Office of Foreign Assets Control. As the Commission's report was going to press, the resident announced a Counter terrorism Funding Request that included the formation of an interagency National Terrorist Asset Tracking Center and an expanded OFAC. The President also requested funding for additional DoJ prosecutors, which would support the Commission's recommendation for using all available criminal

statutes against terrorists. The Commission therefore urges support for the President's funding request.

In addition, because international cooperation is necessary in many cases of terrorist fund-raising, the Commission calls for the ratification of the International Convention for the Suppression of the Financing of Terrorism. This new UN treaty would criminalize terrorist fund-raising in the signatory countries and provide for cooperation in the investigation and prosecution of those crimes.

It is difficult to predict whether terrorists will use chemical, biological, radiological or nuclear weapons. But it is troubling to note that the FBI reports that there has been a dramatic increase in the number of threats to use such agents in the US over the past 4 years. The consequences of even a small-scale incident are so grave that certain weaknesses in American approach should be addressed immediately.

Three concrete steps should be taken right now to reduce the risk that terrorists will get their hands on a biological weapon: criminalize unauthorized possession of the most worrisome biological agents, strengthen safeguards against theft of these agents, and control the sale of equipment necessary for weaponizing biological agents. Examples of this critical equipment include specialized fermenters, aerosol and freeze-drying equipment. Controls on biological agents should be as stringent as those applied to critical nuclear materials.

The Commission also examined the actions that the U.S. Government would have to take in a catastrophic threat or attack, and the legal authorities for such actions. The Commission found that most of the needed legal authorities exist, but are scattered throughout different federal statutes. There are also some gaps in legal authorities. For example, there are gaps in the quarantine authority of cities and states and no clear federal authority with regard to vaccinations. It is not clear that law enforcement officials are aware of their powers for certain types of searches in emergency situations. If government officials are not fully aware of the extent of their legal authorities, there is the danger that in a crisis situation they will be hesitant to act or act improperly. The Commission therefore recommends that the President direct the preparation of a manual outlining existing legal authorities for actions necessary in a catastrophic threat or attack and that the President determine whether additional authorities are needed to deal with catastrophic terrorism.

Let me also take this opportunity to clarify the record on a couple of our recommendations that have been incorrectly reported in the press. First, there have been some reports claiming that the Commission recommends putting the Department of Defense in charge of responding to terrorist attacks in the U.S. This is not true. What we said, and I am now quoting from the report, is that "in extraordinary circumstances, when a catastrophe is beyond the capabilities of local, state, and other federal agencies, or is directly related to an armed conflict overseas, the President may want to designate DoD as a lead federal agency. > (Emphasis added.)

The Commission did not recommend or even suggest an automatic leading role for the Defense Department in all cases. But if we undertake contingency planning for a

catastrophic terrorist attack in the U.S., we must consider all plausible contingencies, including the possibility of a federalized National Guard force operating under the direction of the Secretary of Defense. Not to do so would be irresponsible. In making this recommendation, the Commission had in mind the lessons of the catastrophic attack on Pearl Harbor. In the hysterical aftermath of the attack, two of America's great liberals, Franklin Roosevelt and Earn Warren, locked up Japanese-Americans. The best way to minimize any threat to civil liberties in such an extraordinary scenario is through careful planning, including a thorough analysis of the relevant laws, the development of appropriate guidelines, and realistic training. Thus, the Commission recommended that the National Security Advisor, the Secretary of Defense, and the Attorney General develop detailed plans for this contingency.

The second recommendation that has been misrepresented has to do with foreign students in the U.S. The Commission looked at the larger concern of border security and the difficulty of dealing with the massive flows of people crossing U.S. borders every day. But with only six months, the Commission did not have time to develop a full recommendation on how to improve it. It is a huge problem, and one that probably would benefit from a full review by Congress or the executive branch (or another commission). The Commission was alerted to one aspect of the problem dealing with a long-standing program relating to foreign students in the U.S.

For decades, the INS has required colleges and universities to collect and maintain information on the foreign students enrolled in their institutions. This has included information on citizenship, status (e.g. full or part-time), the date the student commenced studies, their field of study, and the date the student terminated studies. The purpose was to ensure that foreigners who came to the United States as students did not break the law by staying after they had finished, or stopped, their studies. Until recently this data was managed manually and was thus not available to the government in a timely manner.

The bombing of the World Trade Center in 1993 showed the weakness of this long-standing process when it was discovered that one of the bombers had entered this country on a student visa, dropped out and remained here illegally. He was subsequently tried and convicted for his role in that terrorist attack, which took six American lives and injured over 1000 others. He is currently serving a 240-year prison term.

Concerned about the obvious inadequacy of the long-standing program to collect information about foreign students, in 1996 Congress directed the Attorney General to modernize that system. In response, the INS established a pilot program using an Internet-based system to report electronically the information colleges and universities had already been collecting for many years.

The pilot program, called CIPRIS, covers approximately 10,000 foreign students from all countries who are enrolled in 20 colleges, universities, and training programs in the southern U.S. The purpose is to bring the visa-monitoring system into the 21st

century. After several years experience, the INS has concluded that CIPRIS is effective and has proposed to apply it nationwide.

The Commission reviewed CIPRIS and the criticisms of the program, the primary one being the INS proposal to have the universities collect the fees needed to support the program. It is my understanding that, while the universities opposed the idea of having to collect the fee, they did not oppose the main objective of the program to require reporting of information on foreign students.

The Commission concluded that monitoring the immigration status of foreign students is important for a variety of reasons, including counter terrorism. The Commission did not believe, however, that it was in a position to recommend specifically that the CIPRIS program be implemented.

The Commission is not recommending any new requirements on foreign students in the United States. The Commission's position is consistent with regulations that have been in place for many years, and with the view of Congress which mandated the creation of a program to more efficiently keep track of the immigration status of foreign students.

As the danger that terrorists will launch mass casualty attacks grows, so do the policy stakes. To protect her citizens, America needs a sustained national strategy in which leaders use first-rate intelligence to direct the full range of measures—diplomatic, economic and commercial pressures, covert action and military force—against terrorists and their state sponsors.

Mr. Chairman, at this point I would like to introduce my fellow Commissioners who are here today: the Commission's Vice Chairman, Mr. Maurice Sonnenberg, Ms. Jane Harman, Ms. Juliette Kayyem, Mr. John Lewis and Mr. James Woolsey. In addition to those here today, the Commission included Dr. Richard Betts, Gen. Wayne Downing, Dr. Fred Ikle and Mr. Gardner Peckham. It was a privilege to work with this group of dedicated individuals.